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Sponsors:

Referred to:

April 28, 2016

A BILL TO BE ENTITLED
AN ACT TO RESPOND TO THE HOLDING IN *NORTH CAROLINA STATE BOARD OF
DENTAL EXAMINERS V. FEDERAL TRADE COMMISSION*, AND TO AMEND LAWS
PERTAINING TO VARIOUS OCCUPATIONAL LICENSING BOARDS.

The General Assembly of North Carolina enacts:

**OCCUPATIONAL LICENSING BOARD CHANGES TO RESPOND TO THE HOLDING
IN *NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS V. FEDERAL TRADE
COMMISSION*, AND OTHER CHANGES**

SECTION 1. G.S. 93B-1 reads as rewritten:

"§ 93B-1. ~~Definitions.~~Definitions; List of occupational licensing boards.

(a) As used in this ~~Chapter.~~Chapter, the following definitions apply:

(1) ~~"License" means any license (other than a privilege license).~~License. – Any
license other than a privilege license, certificate, or other evidence of
qualification which an individual is required to obtain before he or she may
engage in or represent himself or herself to be a member of a particular
profession or occupation.

(2) ~~"Occupational licensing board" means any~~Occupational licensing board. – Any
board, committee, commission, or other agency in North Carolina which is
established for the primary purpose of regulating the entry of persons into,
and/or the conduct of persons within, a particular profession or occupation, and
which is authorized to issue licenses; "occupational licensing board" does not
include State agencies, staffed by full time State employees, which as a part of
their regular functions may issue licenses given statutory authority to do all of
the following:

- a. Determine minimum qualifications required for licensure for a
particular profession or occupation.
- b. Issue licenses to qualified applicants.
- c. Regulate the conduct of licensees within a particular profession or
occupation.
- d. Seek injunctive relief to prohibit unlicensed individuals or entities from
engaging in certain activities as defined by statute.
- e. Collect fees to support agency operations.



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(b) Occupational licensing boards include only those boards specifically identified in this subsection. No additional boards or commissions shall be added to this list without first having been reviewed and recommended by the Joint Legislative Administrative Procedure Oversight Committee of the General Assembly as being necessary in that the profession subject to licensure affects the health, safety, or welfare of the public and that mandatory licensure is necessary to ensure minimum standards of competency so as to protect the public from unqualified persons or unprofessional conduct by persons or entities practicing in the profession. Occupational licensing boards shall include only the following:

- (1) Acupuncture Licensing Board.
- (2) North Carolina State Bar.
- (3) North Carolina Board of Landscape Architects.
- (4) North Carolina Landscape Contractors' Licensing Board.
- (5) Board of Examiners for Speech and Language Pathologists and Audiologists.
- (6) Midwifery Joint Subcommittee.
- (7) North Carolina Appraisal Board.
- (8) North Carolina Auctioneers Commission.
- (9) North Carolina Board for Licensing of Geologists.
- (10) North Carolina Board for Licensing of Soil Scientists.
- (11) North Carolina Board of Architecture.
- (12) North Carolina Board of Athletic Trainer Examiners.
- (13) North Carolina Board of Cosmetic Art Examiners.
- (14) North Carolina Board of Dietetics/Nutrition.
- (15) North Carolina Board of Electrolysis Examiners.
- (16) North Carolina Board of Funeral Service.
- (17) North Carolina Board of Licensed Professional Counselors.
- (18) North Carolina Board of Massage and Bodywork Therapy.
- (19) North Carolina Board of Nursing.
- (20) North Carolina Board of Occupational Therapy.
- (21) North Carolina Board of Pharmacy.
- (22) North Carolina Board of Physical Therapy Examiners.
- (23) North Carolina Board of Podiatry Examiners.
- (24) North Carolina Board of Recreational Therapy Licensure.
- (25) North Carolina Cemetery Commission.
- (26) Cape Fear River Navigation and Pilotage Commission.
- (27) Morehead City Navigation and Pilotage Commission.
- (28) North Carolina Interpreter and Transliterator Licensing Board.
- (29) North Carolina Irrigation Contractors' Licensing Board.
- (30) North Carolina State Licensing Board for General Contractors.
- (31) North Carolina Locksmith Licensing Board.
- (32) North Carolina Marriage and Family Therapy Licensure Board.
- (33) North Carolina Medical Board.
- (34) North Carolina On-Site Wastewater Contractors and Inspectors Certification Board.
- (35) North Carolina Psychology Board.
- (36) North Carolina Real Estate Commission.
- (37) North Carolina Respiratory Care Board.
- (38) North Carolina Social Work Certification and Licensure Board.
- (39) North Carolina State Board of Dental Examiners.
- (40) North Carolina State Board of Examiners for Engineers and Surveyors.
- (41) North Carolina State Board of Examiners for Nursing Home Administrators.
- (42) North Carolina State Board of Examiners in Optometry.

- (43) North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors.
- (44) North Carolina State Board of Opticians.
- (45) North Carolina State Hearing Aid Dealers and Fitters Board.
- (46) North Carolina Substance Abuse Professional Practice Board.
- (47) North Carolina Veterinary Medical Board.
- (48) State Board of Barber Examiners.
- (49) State Board of Certified Public Accountant Examiners.
- (50) State Board of Chiropractic Examiners.
- (51) State Board of Environmental Health Specialist Examiners.
- (52) State Board of Examiners of Electrical Contractors.
- (53) State Board of Examiners of Plumbing, Heating, and Fire Sprinkler Contractors.
- (54) State Board of Refrigeration Examiners.
- (55) State Board of Registration for Foresters."

SECTION 2. G.S. 93B-2 reads as rewritten:

"§ 93B-2. Annual reports required; contents; open to inspection; sanction for failure to report.

(a) No later than October 31 of each year, each occupational licensing board shall file electronically with the ~~Secretary of State, the Attorney General, and the Joint Legislative Administrative Procedure Oversight Committee~~ Committee, the Department of Commerce, the State Auditor, the Office of State Budget and Management, and the State Controller an annual ~~report-report.~~ The Office of State Budget and Management, in consultation with the State Auditor, the Fiscal Research Division, and the Program Evaluation Division, shall create a uniform form for each occupational licensing board to complete and submit the report electronically. containing The report shall contain all of the following information:

- (1) The address of the board, and the names of its members and officers.
- (1a) The total number of licensees supervised by the board.
- (2) The number of persons who applied to the board for examination.
- (3) The number who were refused examination.
- (4) The number who took the examination.
- (5) The number to whom initial licenses were issued.
- (5a) The number who failed the examination.
- (6) The number who applied for license by reciprocity or comity.
- (7) The number who were granted licenses by reciprocity or comity.
- (7a) The number of official complaints received involving licensed and unlicensed activities.
- (7b) The number of disciplinary actions taken against licensees, or other actions taken against nonlicensees, including injunctive relief.
- (8) The number of licenses suspended or revoked.
- (8b) A list of all fees charged to applicants or licensees by the board, with a comparison to equivalent fees charged by the analogous licensing boards, if applicable, in Georgia, South Carolina, Tennessee, and Virginia.
- (9) The number of licenses terminated for any reason other than failure to pay the required renewal fee.
- (10) The substance of any anticipated request by the occupational licensing board to the General Assembly to amend statutes related to the occupational licensing board.
- (11) The substance of any anticipated change in rules adopted by the occupational licensing board or the substance of any anticipated adoption of new rules by the occupational licensing board.

- (12) A financial report that includes the source and amount of all funds credited to the occupational licensing board and the purpose and amount of all funds disbursed by the occupational licensing board during the previous fiscal year.
- (13) The certification of a proper system of internal control and other financial information as required by G.S. 143D-7.
- (14) A report of all civil penalties, civil forfeitures, and civil fines collected and remitted to the Civil Penalty and Forfeiture Fund pursuant to G.S. 115C-457.2.
- (15) The statute or rule authorizing each fee collected, the amount of the fee, the date the fee was last changed, the number of times the fee was collected during the prior reporting period, and the total receipts resulting from the fee during the prior reporting period.
- (16) If the occupational licensing board has a budget of at least fifty thousand dollars (\$50,000), a financial audit of its operations.

~~(b) No later than October 31 of each year, each occupational licensing board shall file electronically with the Secretary of State, the Attorney General, the Office of State Budget and Management, and the Joint Legislative Administrative Procedure Oversight Committee a financial report that includes the source and amount of all funds credited to the occupational licensing board and the purpose and amount of all funds disbursed by the occupational licensing board during the previous fiscal year. The annual report shall be certified by the occupational licensing board's chair and executive director.~~

(c) The reports required by this section shall be open to public ~~inspection~~ inspection and shall be posted on the Internet Web site of the occupational licensing board.

(d) The Joint Legislative Administrative Procedure Oversight Committee shall review the reports submitted pursuant to this section and shall notify any board that fails to file the reports required by this section. Failure of a board to comply with the reporting requirements of this section by October 31 of each year shall result in a suspension of the board's authority to expend any funds until such time as the board files the required reports. Suspension of a board's authority to expend funds under this subsection shall not affect the board's duty to issue and renew licenses or the validity of any application or license for which fees have been tendered in accordance with law. Each board shall adopt rules establishing a procedure for implementing this subsection and shall maintain an escrow account into which any fees tendered during a board's period of suspension under this subsection shall be deposited."

SECTION 3. G.S. 93B-4 reads as rewritten:

"§ 93B-4. Audit of Occupational Licensing Boards; payment of costs.

(a) The State Auditor shall audit occupational licensing boards from time to time to ensure their proper operation. The books, records, and operations of each occupational licensing board shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. In accordance with G.S. 147-64.7(b), the State Auditor may contract with independent professionals to meet the requirements of this section.

~~(b) Each occupational licensing board with a budget of at least fifty thousand dollars (\$50,000) shall conduct an annual financial audit of its operations and provide a copy to the State Auditor."~~

SECTION 4. G.S. 93B-5(g) reads as rewritten:

"(g) Within six months of a board member's initial appointment to the board, and at least once within every two calendar years thereafter, a board member shall receive training, either from the board's staff, including its legal advisor, or from an outside educational institution such as the School of Government of the University of North Carolina, on the statutes governing the board and rules adopted by the board, as well as the following State and federal laws, in order to better understand the obligations and limitations of a State agency:

- (1) Chapter 150B, The Administrative Procedure Act.
- (2) Chapter 132, The Public Records Law.

(3) Article 33C of Chapter 143, The Open Meetings Act.

(4) Articles 31 and 31A of Chapter 143, The State Tort Claims Act and The Defense of State Employees Law.

(5) Chapter 138A, The State Government Ethics Act.

(6) Chapter 120C, Lobbying.

(7) Antitrust law and State action immunity.

Completion of the training requirements contained in Chapter 138A and Chapter 120C of the General Statutes satisfies the requirements of subdivisions (5) and (6) of this subsection."

SECTION 5.(a) Chapter 93B of the General Statutes is amended by adding nine new sections to read:

"§ 93B-17. Occupational licensing board rule making.

(a) Each occupational licensing board shall adopt rules for the receipt and resolution of complaints, for taking disciplinary or enforcement actions against its licensees, and for taking enforcement actions against persons not licensed by the board.

(b) Any interpretation, clarification, or other delineation of the scope of practice of an occupational licensing board shall be adopted as a rule.

"§ 93B-18. Unlicensed activity.

(a) An occupational licensing board shall have the authority to investigate unlicensed activity and notify unlicensed persons and entities of the possible violation of the law and administrative rules and any civil action or criminal penalty that may be imposed by a court. The notification shall not indicate that the occupational licensing board has made any finding of a violation but may indicate the board's belief or opinion that a particular act may violate the board's enabling statutes, include factual information regarding legislation and court proceedings concerning the potential violation, and provide notice of the board's intention to pursue administrative remedies or court proceedings with regard to the potential violation.

(b) Any occupational licensing board providing notification to unlicensed persons and entities of a possible violation of the law and administrative rules and any civil action or criminal penalty that may be imposed by a court shall include the following statement in the notification:

You are hereby notified that the opinion expressed herein is not a legal determination. An occupational licensing board does not have the authority to order you to discontinue your current practices. Only a court may determine that you have violated or are violating any law and, if appropriate, impose a remedy or penalty for the violation. Further, pursuant to G.S. 150B-4, you may have the right, prior to initiation of any court action by the occupational licensing board, to request a declaratory ruling regarding whether your particular conduct is lawful. You are further notified that any right to a declaratory ruling supplements any other legal rights that you may already have to establish the legality of your conduct with respect to the goods or services you offer or provide.

(c) If an occupational licensing board is sued by a private plaintiff for violation of any State or federal antitrust laws and the court rules against the occupational licensing board, the plaintiff shall recover from the licensing board all reasonable expenses, including attorney's fees, incurred in maintaining the action.

"§ 93B-19. Venue for court enforcement.

The venue for occupational licensing boards seeking a court order for injunctive relief or to show cause for failure to comply with a subpoena lawfully issued by the occupational licensing board shall be in the superior court of the county where the defendant resides or in the county where the occupational licensing board has its principal place of business.

"§ 93B-20. Injunctive relief.

An occupational licensing board may appear in its own name in superior court in actions for injunctive relief to restrain the violation of the provisions of a statute administered by the board or a rule or order of the board. The superior court shall have the jurisdiction to grant these

injunctions, restraining orders, or take other appropriate action even if criminal prosecution has been or may be instituted as a result of the violations, or whether the person is a licensee of the board. No board shall issue such orders independently of the superior court unless specifically authorized to do so by law.

"§ 93B-21. Jurisdictional disputes between boards.

It is the policy of the State that jurisdictional disputes among occupational licensing boards shall be resolved through informal procedures. If a jurisdictional dispute among occupational licensing boards cannot be resolved through informal procedures, any affected board may commence an administrative proceeding to resolve the jurisdictional dispute by filing a petition with the Office of Administrative Hearings and serve the petition on all affected boards. However, neither board involved in a jurisdictional dispute may commence an administrative proceeding until at least 90 days after each board has jointly or separately submitted its complaint in writing to the Joint Legislative Administrative Procedure Oversight Committee. Once the petition is filed and the required fee is paid, the dispute shall become a contested case and shall be conducted by the Office of Administrative Hearings under Articles 3 and 4 of Chapter 150B of the General Statutes.

"§ 93B-22. Complaint process.

Each occupational licensing board shall develop and implement a complaint process that provides for all of the following:

- (1) A description of the complaint process on the board's Web site, including the types of violations that are under the jurisdictional authority of the board.
- (2) Electronic complaint submission via the board's Web site, including a prominently displayed link to a complaint form.
- (3) The ability to provide complainants with a written description of the final disposition of each complaint.

"§ 93B-23. Revenue sources.

No occupational licensing board shall have any source of revenue other than statutorily authorized fees, rents, interest and dividends, cost of copies, books, and records.

"§ 93B-24. Renewal fees.

If a licensee pays any license renewal fee by check, an occupational licensing board may charge the licensee a processing fee not to exceed five dollars (\$5.00).

"§ 93B-25. License renewals.

Notwithstanding any other provision of law, an occupational licensing board may provide for:

- (1) Licenses issued by the board to remain valid for two years.
- (2) Licenses issued by the board to expire one calendar year after issuance of the license."

SECTION 5.(b) The complaint process provided for in G.S. 93B-22 shall be implemented and active on each board's Web site no later than January 1, 2017.

SECTION 5.(c) G.S. 93B-21 is effective July 1, 2016, and applies to jurisdictional disputes that arise on or after that date. The remainder of this section is effective when it becomes law.

SECTION 6. G.S. 115C-457.2 reads as rewritten:

"§ 115C-457.2. Remittance of moneys to the Fund.

The clear proceeds of all civil penalties, civil forfeitures, and civil fines that are collected by a State agency and that the General Assembly is authorized to place in a State fund pursuant to Article IX, Section 7(b) of the Constitution shall be remitted to the Office of State Budget and Management by the officer having custody of the funds within 10 days after the close of the calendar month in which the revenues were received or collected. Notwithstanding any other law, all such funds shall be deposited in the Civil Penalty and Forfeiture Fund. The clear proceeds of these funds include the full amount of all civil penalties, civil forfeitures, and civil fines collected under authority conferred by the State, diminished only by the actual costs of collection, not to

1 exceed twenty percent (20%) of the amount collected. The collection cost percentage to be used by
2 a State agency shall be established and approved by the Office of State Budget and Management
3 on an annual basis based upon the computation of actual collection costs by each agency for the
4 prior fiscal year. Occupational licensing boards as defined in G.S. 93B-1 shall satisfy the annual
5 reporting obligation imposed under this section by including the information required in the
6 occupational licensing board's annual report required pursuant to G.S. 93B-2."

7 **SECTION 7.(a)** G.S. 143C-9-4 reads as rewritten:

8 **"§ 143C-9-4. Biennial fee report.**

9 (a) The Office of State Budget and Management shall prepare a report biennially on the
10 fees charged by each State department, bureau, division, board, commission, institution, and
11 agency during the previous two fiscal years. The report shall include the statutory or regulatory
12 authority for each fee, the amount of the fee, when the amount of the fee was last changed, the
13 number of times the fee was collected during the prior fiscal year, and the total receipts from the
14 fee during the prior fiscal year.

15 (a1) The Office of State Budget and Management shall obtain the information required
16 under this section for occupational licensing boards as defined in G.S. 93B-1 from the annual
17 report filed by each occupational licensing board pursuant to G.S. 93B-2. The Office of State
18 Budget and Management shall combine each occupational licensing board's annual report required
19 under G.S. 93B-2, in addition to the information required by this section, into one document. The
20 Office of State Budget and Management shall submit the document to the Joint Legislative
21 Administrative Procedure Oversight Committee and the Fiscal Research Division no later than
22 January 1 of each odd-numbered year."

23 **SECTION 7.(b)** The Joint Legislative Administrative Procedure Oversight
24 Committee shall study the feasibility of developing a standard electronic accounting software
25 system that all occupational licensing boards shall adopt and use no later than July 1, 2017.

26 **SECTION 8.** G.S. 143D-7 reads as rewritten:

27 **"§ 143D-7. Agency management responsibilities.**

28 (a) The management of each State agency bears full responsibility for establishing and
29 maintaining a proper system of internal control within that agency. Each principal executive
30 officer and each principal fiscal officer shall annually certify, in a manner prescribed by the State
31 Controller, that the agency has in place a proper system of internal control. The State Controller
32 shall develop policies and procedures to direct agencies in their evaluation.

33 (b) The management of each State agency also bears the responsibility periodically to
34 submit accurate and complete financial information to the State Controller for compilation into
35 North Carolina State government's various financial reports and other related financial information
36 disseminated to the public. With the submission of such periodic reports to the State Controller,
37 each agency's principal executive officer and each agency's principal fiscal officer shall certify, in
38 a manner prescribed by the State Controller, to the accuracy and completeness of the financial
39 information submitted.

40 (c) Occupational licensing boards as defined in G.S. 93B-1 shall satisfy the annual
41 reporting obligation imposed under this section by including the information required in the
42 occupational licensing board's annual report required pursuant to G.S. 93B-2."

43 **SECTION 9.(a)** The Joint Legislative Administrative Procedure Oversight Committee
44 shall continue to monitor and study the effects of the opinion in *North Carolina State Board of*
45 *Dental Examiners v. Federal Trade Commission* and other issues related to the scope of practice
46 jurisdiction of occupational licensing boards.

47 **SECTION 9.(b)** The Joint Legislative Administrative Procedure Oversight
48 Committee shall study the fine schedule of each occupational licensing board and shall develop
49 legislative recommendations for a standard maximum fine schedule applicable to all occupational
50 licensing boards. The Committee shall report its findings and recommendations to the General
51 Assembly no later than January 1, 2017.

**CONSOLIDATE AND MOVE TO CERTIFICATION CERTAIN LICENSING BOARDS
AND REQUIRE REPORTING**

SECTION 10.(a) All occupational licensing boards that have fewer than 1,500 licensees as of July 1, 2016, shall be consolidated into other agencies to minimize the cost of licensure or shall move to a certification model on or before October 1, 2019.

SECTION 10.(b) In order to provide for the orderly and efficient consolidation or move to certification of the boards, and the potential transfer of the licensing requirements for each board to another board, each affected board shall submit a plan to the Joint Legislative Administrative Procedure Oversight Committee no later than November 1, 2017. The consolidation and move to certification plan shall include recommendations for all of the following:

- (1) Whether and how the licensing requirements of the board should be transferred.
- (2) The disposition or transfer of licensing fees and property held by the board.
- (3) The fulfillment, dissolution, or transfer of contracts to which the board is a party.
- (4) The resolution or transfer of any disciplinary or other administrative or legal actions to which the board is a party.
- (5) How the board raises revenues to fund the board's overhead costs.
- (6) Any other matters the board deems necessary.

**ALLOW NORTH CAROLINA PUBLIC SCHOOLS TO REDUCE COSTS BY
ALLOWING THE EMPLOYMENT OF LICENSED SCHOOL MAINTENANCE
PLUMBERS**

SECTION 11.(a) G.S. 87-21 is amended by adding a new subsection to read:

"§ 87-21. Definitions; contractors licensed by Board; examination; posting license, etc.

...

- (b) Classes of Licenses; Eligibility and Examination of Applicant; Necessity for License. –
- (1) In order to protect the public health, comfort and safety, the Board shall establish two classes of licenses: Class I covering all plumbing, heating, and fire sprinkler systems for all structures, and Class II covering plumbing and heating systems in single-family detached residential dwellings.
 - (2) Restricted licenses or classifications. –
 - a. The Board shall establish and issue a fuel piping license for use by persons who do not possess the required Class I or Class II plumbing or heating license, but desire to engage in the contracting or installing of fuel piping extending from an approved fuel source at or near the premises, which piping is used or may be used to supply fuel to any systems, equipment, or appliances located inside the premises.
 - b. The Board shall establish and issue a limited plumbing contractor license for use by persons who do not possess the required Class I or Class II plumbing license but desire to engage in the contracting or installation, repair, or replacement of either of the following:
 1. Exterior potable water service lines or backflow preventers serving irrigation systems or domestic water service systems of two inch diameter or smaller.
 2. Exterior building sewer or water service piping of two inch diameter or smaller.
 - c. ~~The Board may also establish additional restricted classifications to provide for: (i) the licensing of any person, partnership, firm, or corporation desiring to engage in a specific phase of heating, plumbing,~~

or fire sprinkling contracting; (ii) the licensing of any person, partnership, firm, or corporation desiring to engage in a specific phase of heating, plumbing, or fire sprinkling contracting that is an incidental part of their primary business, which is a lawful business other than heating, plumbing, or fire sprinkling contracting; or (iii) the licensing of persons desiring to engage in contracting and installing fuel piping from an approved fuel source on the premises to a point inside the residence. shall establish and issue:

1. A State and local government plumbing, heating group number one, heating group number two, or heating group number three technician license for use by persons who do not possess the required plumbing, heating group number one, heating group number two, or heating group number three contractor license but desire to engage in the installation, repair, or replacement of plumbing, heating group number one, heating group number two, or heating group number three solely as an employee of a State or local government agency.
2. A State and local government plumbing, heating group number one, heating group number two, or heating group number three technician license for use by persons who do possess the required plumbing, heating group number one, heating group number two, or heating group number three contractor license but also desire to engage in the installation, repair or replacement of plumbing, heating group number one, heating group number two, or heating group number three as an employee of a State or local government agency without listing their contractor license in the name of the State or local government agency. Licensed contractors who obtain the State and local government technician license shall be allowed to contract and perform work under their contractor license only during hours such contractor is not actively employed with the State or local government as a technician, and is on-site carrying out the contracting activity personally. No work can be performed by the State or local government agency in reliance upon the technician license when the licensee is not present.

...."

SECTION 11.(b) G.S. 87-26 is amended by adding a new subsection to read:

"§ 87-26. Corporations; partnerships; persons doing business under trade name.

(a) A license may be issued in the name of a corporation, provided, one or more officers, or full time employee or employees, or both, empowered to act for the corporation, are licensed in accordance with the provisions of this Article; and provided such officers or employee or employees shall execute contracts to the extent of their license qualifications in the name of the said corporation and exercise general supervision over the work done thereunder.

(b) A license may be issued in the name of a partnership provided one or more general partners, or full time employee or employees empowered to act for the partnership, are licensed in accordance with the provisions of this Article, and provided such general partners or employee or employees shall execute contracts to the extent of their license qualifications in the name of the said partnership, and exercise general supervision over the work done thereunder.

(c) A license may be issued in an assumed or designated trade name, provided the owner of the business conducted thereunder, or full time employee or employees empowered to act for the owner, are licensed in accordance with the provisions of this Article; and such owner or

employee or employees shall execute contracts to the extent of their license qualifications, in the said trade name, and exercise general supervision over the work done thereunder.

(d) A certificate of license may be issued in accordance with the provisions of this Article upon payment of the annual license fee by such corporation, partnership, or owner of the business conducted under an assumed or designated trade name, as the case may be, and the names and qualifications of individual licensee or licensees connected therewith shall be indicated on the aforesaid license.

(e) It shall be necessary that persons licensed in accordance with the provisions of this section shall exercise general supervision over contracts to completion.

(f) Nothing in this section shall be deemed to limit the ability of a licensee under this Article who is regularly employed by a local board of education to maintain an individual license or to contract or perform work during the hours the licensee is off-duty from the regular employer."

SECTION 11.(c) G.S. 115C-524 is amended by adding a new subsection to read:
"§ 115C-524. Repair of school property; use of buildings for other than school purposes.

(a) Repair of school buildings is subject to the provisions of G.S. 115C-521(c) and (d).

(a1) Local boards of education may employ personnel who are licensed to perform maintenance and repairs on school property for plumbing, heating, and fire sprinklers pursuant to Article 2 of Chapter 87 of the General Statutes.

(b) It shall be the duty of local boards of education and tax-levying authorities, in order to safeguard the investment made in public schools, to keep all school buildings in good repair to the end that all public school property shall be taken care of and be at all times in proper condition for use. It shall be the duty of all principals, teachers, and janitors to report to their respective boards of education immediately any unsanitary condition, damage to school property, or needed repair. All principals, teachers, and janitors shall be held responsible for the safekeeping of the buildings during the school session and all breakage and damage shall be repaired by those responsible for same, and where any principal or teacher shall permit damage to the public school buildings by lack of proper discipline of pupils, such principal or teacher shall be held responsible for such damage: Provided, principals and teachers shall not be held responsible for damage that they could not have prevented by reasonable supervision in the performance of their duties.

..."

SECTION 11.(d) This section becomes effective October 1, 2016.

CLARIFY THE REQUIREMENTS FOR INITIAL LICENSURE AS A PROFESSIONAL ENGINEER

SECTION 12.(a) G.S. 89C-13 reads as rewritten:
"§ 89C-13. General requirements for licensure.

(a) ~~Engineer Applicant.—The following shall be considered as minimum evidence satisfactory to the Board that the applicant is qualified for licensure as a professional engineer:~~

- ~~(1) To be certified as an engineer intern, an applicant shall (i) pass the fundamentals of engineering examination and make application to the Board, (ii) be of good character and reputation, (iii) submit three character references to the Board, one of whom is a professional engineer, (iv) comply with the requirements of this Chapter, and (v) meet one of the following requirements:~~

~~a. Education.—Be a graduate of an engineering curriculum or related science curriculum of four years or more, approved by the Board as being of satisfactory standing.~~

~~b. Education and experience.—Be a graduate of an engineering curriculum or related science curriculum of four years or more, other than curriculums approved by the Board as being of satisfactory standing, or possess equivalent education and engineering experience satisfactory to~~

the Board with a specific record of four or more years of progressive experience on engineering projects of a grade and character satisfactory to the Board.

(1a) ~~To be licensed as a professional engineer, an applicant shall (i) be of good character and reputation, (ii) submit five character references to the Board, three of whom are professional engineers or individuals acceptable to the Board with personal knowledge of the applicant's engineering experience, (iii) comply with the requirements of this Chapter, and (iv) meet one of the following requirements:~~

a. ~~Licensure by Comity or Endorsement. — A person holding a certificate of licensure to engage in the practice of engineering, on the basis of comparable qualifications, issued to the person by a proper authority of a state, territory, or possession of the United States, the District of Columbia, or of any foreign country possessing credentials that, based on verifiable evidence, in the opinion of the Board, of a standard not lower than that in effect in this State at the time the certificate was issued, may upon application, be licensed without further examination, except as required to examine the applicant's knowledge of laws, rules, and requirements unique to North Carolina.~~

b. ~~E.I. Certificate, Experience, and Examination. — A holder of a certificate of engineer intern and with a specific record of an additional four years or more of progressive experience on engineering projects of a grade and character which indicates to the Board that the applicant may be competent to practice engineering, shall be admitted to the principles and practice of engineering examination. Upon passing the examination, the applicant shall be granted a certificate of licensure to practice professional engineering in this State, provided the applicant is otherwise qualified.~~

c. ~~Graduation, Experience, and Examination. — A graduate of an engineering curriculum of four years or more approved by the Board as being of satisfactory standing, shall be admitted to the fundamentals of engineering examination, and with a specific record of an additional four years or more of progressive experience on engineering projects of a grade and character that indicates to the Board that the applicant may be competent to practice engineering, the principles and practice of engineering examination. Upon passing the examinations, the applicant shall be granted a certificate of licensure to practice professional engineering in this State, provided the applicant is otherwise qualified.~~

d. ~~Graduation, Experience, and Examination. — A graduate of an engineering or related science curriculum of four years or more, other than the ones approved by the Board as being of satisfactory standing or with an equivalent education and engineering experience satisfactory to the Board shall be admitted to the fundamentals of engineering examination and with a specific record of an additional eight years or more of progressive experience on engineering projects of a grade and character that indicates to the Board that the applicant may be competent to practice engineering, the principles and practice of engineering examination. Upon passing the examinations, the applicant shall be granted a certificate of licensure to practice professional engineering in this State, provided the applicant is otherwise qualified.~~

- 1 e. ~~Long Established Practice.~~— A person with a specific record of 20 years
2 or more of progressive experience on engineering projects of a grade
3 and character which indicates to the Board that the applicant may be
4 competent to practice engineering shall be admitted to the principles and
5 practice of engineering examination. Upon passing the examination, the
6 applicant shall be granted a certificate of licensure to practice
7 professional engineering in this State, provided the applicant is
8 otherwise qualified.
- 9 f. ~~Full time faculty.~~— Full time engineering faculty members who teach in
10 an approved engineering program offering a four year or more degree
11 approved by the Board, may request and be granted waiver of the
12 fundamentals of engineering examination. The faculty applicant shall
13 document that the degree meets the Board's requirement. The faculty
14 applicant shall then be admitted to the principles and practice of
15 engineering examination.
- 16 g. ~~Doctoral degree.~~— A person possessing an earned doctoral degree in
17 engineering from an institution in which the same discipline
18 undergraduate engineering program has been accredited by ABET
19 (EAC) may request and be granted waiver of the fundamentals of
20 engineering examination. The doctoral degree applicant shall document
21 that the degree meets the Board's requirement. The doctoral degree
22 applicant shall then be admitted to the principles and practice of
23 engineering examination.

24 ~~At its discretion the Board may require an applicant to submit exhibits, drawings, designs, or~~
25 ~~other tangible evidence of engineering work which the applicant personally accomplished or~~
26 ~~supervised.~~ Engineer Intern. — To be certified as an engineer intern, an applicant shall (i) pass the
27 fundamentals of engineering examination and make application to the Board, (ii) be of good
28 character and reputation, (iii) submit three character references to the Board, one of whom is a
29 professional engineer, (iv) comply with the requirements of this Chapter, and (v) meet one of the
30 following requirements:

- 31 (1) Education. — Be a graduate of an EAC/ABET accredited engineering
32 curriculum or of a related science curriculum which has been approved by the
33 Board as being of satisfactory standing.
- 34 (2) Education and experience. — Be a graduate of an engineering curriculum or
35 related science curriculum of four years or more, other than curriculums
36 approved by the Board as being of satisfactory standing in subdivision (1) of
37 this subsection, and possess engineering experience satisfactory to the Board
38 with a specific record of four or more years of progressive experience on
39 engineering projects of a grade and character satisfactory to the Board.

40 (a1) Engineer Applicant. — To be licensed as a professional engineer, an applicant (i) shall
41 be of good character and reputation, (ii) submit five character references to the Board, three of
42 whom are professional engineers or individuals acceptable to the Board with personal knowledge
43 of the applicant's engineering experience, (iii) comply with the requirements of this Chapter, and
44 (iv) meet the requirements related to education, examination, and experience set forth in this
45 subsection. An applicant seeking licensure as a professional engineer shall meet the following
46 requirements:

- 47 (1) Education requirement. — Possess one or more of the following educational
48 qualifications:
- 49 a. A bachelor's degree in engineering from an EAC/ABET accredited
50 program or in a related science curriculum which has been approved by
51 the Board as being of satisfactory standing.

- b. A bachelor's degree in an engineering curriculum or related science curriculum of four years or more, other than curriculums approved by the Board as being of satisfactory standing in sub-subdivision a. of this subdivision.
- c. A master's degree in engineering from an institution that offers EAC/ABET accredited programs.
- d. An earned doctoral degree in engineering from an institution that offers EAC/ABET accredited programs and in which the degree requirements are approved by the Board.

(2) Examination requirements. – Take and pass the Fundamentals of Engineering (FE) examination. Take and pass the Principles and Practice of Engineering (PE) examination as provided by G.S. 89C-15, after having met the education requirement set forth in subdivision (1) of this subsection.

(3) Experience requirement. – Present evidence satisfactory to the Board of a specific record of progressive engineering experience that is of a grade and character that indicates to the Board that the applicant is competent to practice engineering. The Board may adopt rules to specify the years of experience required based on educational attainment, provided the experience requirement for an applicant who qualifies under sub-subdivision (1)a. of this subsection shall be no less than four years and for an applicant who qualifies under sub-subdivision (1)b. of this subsection, no less than eight years.

For purposes of this subsection the term "EAC/ABET" means the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology.

(a2) Licensure by Comity or Endorsement. – A person holding a certificate of licensure to engage in the practice of engineering, on the basis of comparable qualifications, issued to the person by a proper authority of a state, territory, or possession of the United States, the District of Columbia, or of any foreign country possessing credentials that, based on verifiable evidence, in the opinion of the Board, of a standard not lower than that in effect in this State at the time the certificate was issued, may upon application, be licensed without further examination, except as required to examine the applicant's knowledge of laws, rules, and requirements unique to North Carolina.

(a3) Long-Established Practice. – A person with a specific record of 20 years or more of progressive experience on engineering projects of a grade and character which indicates to the Board that the applicant may be competent to practice engineering shall be admitted to the Principles and Practice of Engineering examination. Upon passing the examination, the person shall be granted a certificate of licensure to practice professional engineering in this State, provided the person is otherwise qualified.

(a4) Exceptions. – The following persons may apply for and be granted waiver of the fundamentals of engineering examination and admission to the principles and practice of engineering examination:

- (1) A full-time engineering faculty member who teaches in an approved engineering program offering a four-year or more degree approved by the Board. The faculty member applicant shall document that the degree meets the Board's requirements.
- (2) A person possessing an earned doctoral degree in engineering from an institution in which the same discipline undergraduate engineering program has been accredited by EAC/ABET. The doctoral degree applicant shall document that the degree meets the Board's requirements.

(b) Land Surveyor Applicant. – The evaluation of a land surveyor applicant's qualifications shall involve a consideration of the applicant's education, technical, and land surveying experience, exhibits of land surveying projects with which the applicant has been associated, and

1 recommendations by references. The land surveyor applicant's qualifications may be reviewed at
2 an interview if the Board determines it necessary. Educational credit for institute courses,
3 correspondence courses, or other courses shall be determined by the Board.

4"

5 **SECTION 12.(b)** This section becomes effective October 1, 2016.

6
7 **AMEND LAWS PERTAINING TO THE NORTH CAROLINA MEDICAL BOARD**

8 **SECTION 13.(a)** G.S. 90-2(b) reads as rewritten:

9 "(b) No member shall serve more than two complete ~~consecutive~~-three-year ~~terms, terms in~~
10 a lifetime, except that each member shall serve until a successor is chosen and qualifies."

11 **SECTION 13.(b)** G.S. 90-3(b) reads as rewritten:

12 "(b) To be considered qualified for a physician position or the physician assistant or nurse
13 practitioner position on the Board, an applicant shall meet each of the following criteria:

14 ...

15 (10) Have not served more than 72 months as a member of the Board."

16 **SECTION 13.(c)** G.S. 90-3(c) reads as rewritten:

17 "(c) The ~~review panel~~ Review Panel shall recommend at least two qualified nominees for
18 each open position on the Board. If the Governor chooses not to appoint either of the
19 recommended nominees, the Review Panel shall recommend at least two new qualified
20 nominees."

21 **SECTION 13.(d)** G.S. 90-3 is amended by adding new subsections to read:

22 "(f) Notwithstanding any provision of G.S. 90-16, the Board may provide confidential and
23 nonpublic licensing and investigative information in its possession to the Review Panel.

24 (g) All applications, records, papers, files, reports, and all investigative and licensing
25 information received by the Review Panel from the Board and other documents received or
26 gathered by the Review Panel, its members, employees, agents, and consultants as a result of
27 soliciting, receiving, and reviewing applications and making recommendations as required in this
28 section shall not be considered public records within the meaning of Chapter 132 of the General
29 Statutes. All such information shall be privileged, confidential, and not subject to discovery,
30 subpoena, or other means of legal compulsion for release to any person other than the Review
31 Panel, the Board, and their employees, agents, or consultants, except as provided in this section.
32 The Review Panel shall publish on its Internet Web site the names and practice addresses of all
33 applicants within 10 days after the application deadline. The Review Panel shall publish on its
34 Internet Web site the names and practice addresses of the nominees recommended to the Governor
35 within 10 days after notifying the Governor of those recommendations and not less than 30 days
36 prior to the expiration of the open position on the Board.

37 (h) The Review Panel is a public body within the meaning of Article 33C of Chapter 143
38 of the General Statutes. In addition to the provisions contained in Article 33C of Chapter 143 of
39 the General Statutes permitting a public body to conduct business in a closed session, the Review
40 Panel shall meet in closed session to review applications; interview applicants; review and discuss
41 information received from the Board; and discuss, debate, and vote on recommendations to the
42 Governor."

43 **SECTION 13.(e)** G.S. 90-5.2(7) reads as rewritten:

44 "(7) ~~An A current, active e-mail address or facsimile number address, which shall~~
45 ~~not be made available to the public and shall be considered a public record within~~
46 ~~the meaning of Chapter 132 of the General Statutes. This information may be~~
47 ~~used or made available by the Board for the purpose of expediting the~~
48 ~~dissemination of disseminating or soliciting information about a affecting~~
49 ~~public health emergency or the practice of medicine."~~
50 **SECTION 13.(f)** G.S. 90-5.2(a1) reads as rewritten:

"(a1) The Board shall make e-mail addresses ~~and facsimile numbers~~ reported pursuant to G.S. 90-5.2(a)(7) available to the Department of Health and Human Services for use in the North Carolina Controlled Substance Reporting System established by Article 5E of this Chapter."

SECTION 13.(g) G.S. 90-8.1 reads as rewritten:

"§ 90-8.1. Rules governing applicants for licensure.

(a) The North Carolina Medical Board is empowered to adopt rules that prescribe additional qualifications for an applicant, including education and examination requirements and application procedures.

(b) The Board shall not deny an application for licensure based solely on the applicant's failure to become board certified."

SECTION 13.(h) G.S. 90-13.1(a) reads as rewritten:

"(a) Each applicant for a license to practice medicine and surgery in this State under either G.S. 90-9.1 or G.S. 90-9.2 shall pay to the North Carolina Medical Board an application fee of ~~three-four~~ hundred fifty dollars ~~(\$350.00)-(\$400.00).~~"

SECTION 13.(i) G.S. 90-13.2 reads as rewritten:

"§ 90-13.2. Registration every year with Board.

(a) Every person licensed to practice medicine by the North Carolina Medical Board shall register annually with the Board within 30 days of the person's birthday.

(b) A person who registers with the Board shall report to the Board the person's name and office and residence address and any other information required by the Board, and shall pay an annual registration fee of ~~one hundred seventy five two hundred fifty~~ dollars (\$175.00)-(\$250.00). except those who have a limited license to practice in a medical education and training program approved by the Board for the purpose of education or training shall pay a registration fee of one hundred twenty-five dollars ~~(\$125.00)-(\$125.00), and those who have a retired limited volunteer license pursuant to G.S. 90-12.1B shall pay an annual registration fee of twenty five dollars (\$25.00), and those who have or~~ a limited volunteer license pursuant to G.S. 90-12.1A shall pay no annual registration fee. However, licensees who have a limited license to practice for the purpose of education and training under G.S. 90-12.01 shall not be required to pay more than one annual registration fee for each year of training.

(c) ~~A physician who is not actively engaged in the practice of medicine in North Carolina and who does not wish to register the license may direct the Board to place the license on inactive status.~~

(d) A physician who is not actively engaged in the practice of medicine in North Carolina and who does not wish to register the license may direct the Board to place the license on inactive status.

(e) A physician who fails to register as required by this section shall pay an additional fee of fifty dollars (\$50.00) to the Board. The license of any physician who fails to register and who remains unregistered for a period of 30 days after certified notice of the failure is automatically inactive. The Board shall retain jurisdiction over the holder of the inactive license.

(f) Except as provided in G.S. 90-12.1B, a person whose license is inactive shall not practice medicine in North Carolina nor be required to pay the annual registration fee.

(g) Upon payment of all accumulated fees and penalties, the license of the physician may be reinstated, subject to the Board requiring the physician to appear before the Board for an interview and to comply with other licensing requirements. The penalty may not exceed the maximum fee for a license under G.S. 90-13.1.

(h) The Board shall not deny a licensee's annual registration based solely on the licensee's failure to become board certified."

SECTION 13.(j) G.S. 90-14(n) reads as rewritten:

"(n) Notwithstanding subsection (m) of this section, if the licensee has retained ~~counsel and the Board has not made a nonpublic determination to initiate disciplinary proceedings, counsel,~~ the Board may serve to both the licensee and the licensee's counsel orders to produce, ~~orders to~~

1 appear, ~~or submit to assessment, examination, or orders following a hearing, or provide notice that~~
2 the Board will not be taking any further action against a licensee to both the licensee and the
3 licensee's counsel.licensee."

4 **SECTION 13.(k)** G.S. 90-14.2 is amended by adding a new subsection to read:

5 "(c) Once charges have been issued, the parties may engage in discovery as provided in
6 G.S. 1A-1, the North Carolina Rules of Civil Procedure. Additionally, pursuant to any written
7 request by the respondent or respondent's counsel, the Board shall provide information obtained
8 during an investigation, except for the following:

9 (1) Information that is subject to attorney-client privilege or is attorney work
10 product.

11 (2) Information that would identify an anonymous complainant.

12 (3) Information generated during an investigation that will not be offered into
13 evidence by the Board and is related to:

14 a. Advice, opinions, or recommendations of the Board staff, consultants,
15 or agents.

16 b. Deliberations by the Board and its committees during an investigation."

17 **SECTION 13.(l)** G.S. 90-14.13(a1)(1) reads as rewritten:

18 "(a1) A hospital is not required to report:

19 (1) The suspension or limitation of a physician's privileges for failure to timely
20 complete medical records unless the suspension or limitation is the third within
21 the calendar year for failure to timely complete medical records. Upon reporting
22 the third suspension or limitation, the hospital shall also report the previous two
23 suspensions or limitations records."

24 **SECTION 13.(m)** Article 1D of Chapter 90 of the General Statutes is renamed as
25 follows:

26 "Article 1D.

27 "Peer Review." Health Program for Medical Professionals."

28 **SECTION 13.(n)** G.S. 90-21.22 reads as rewritten:

29 "**§ 90-21.22. Peer review agreements.**Health program for medical professionals.

30 (a) The North Carolina Medical Board may, under rules adopted by the Board in
31 compliance with Chapter 150B of the General Statutes, (Board) may enter into agreements with
32 the North Carolina Medical Society and its local medical society components, and with (Society),
33 the North Carolina Academy of Physician Assistants (Academy), and the North Carolina
34 Physicians Health Program (Program) for the purpose purposes of conducting peer review
35 activities. Peer review activities to be covered by such agreements shall include investigation,
36 review, and evaluation of records, reports, complaints, litigation and other information about the
37 practices and practice patterns of physicians licensed by the Board, and of physician assistants
38 approved by the Board, and shall include programs for impaired physicians and impaired
39 physician assistants. Agreements between the Academy and the Board shall be limited to
40 programs for impaired physicians and physician assistants and shall not include any other peer
41 review activities.identifying, reviewing, and evaluating the ability of licensees of the Board who
42 have been referred to the Program to function in their professional capacity and to coordinate
43 regimens for treatment and rehabilitation. The agreement shall include guidelines for all items
44 outlined below:

45 (1) The assessment, referral, monitoring, support, and education of licensees of the
46 Board by reason of a physical or mental illness, a substance use disorder, or
47 professional sexual misconduct.

48 (2) Procedures for the Board to refer licensees to the Program.

49 (3) Criteria for the Program to report licensees to the Board.

50 (4) A procedure by which licensees may obtain review of recommendations by the
51 Program regarding assessment or treatment.

(5) Periodic reporting of statistical information by the Program to the Board, the Society, and the Academy.

(6) Maintaining the confidentiality of nonpublic information.

(b) ~~Peer review agreements shall include provisions for the society and for the Academy to receive relevant information from the Board and other sources, conduct the investigation and review in an expeditious manner, provide assurance of confidentiality of nonpublic information and of the review process, make reports of investigations and evaluations to the Board, and to do other related activities for promoting a coordinated and effective peer review process. Peer review agreements shall include provisions assuring due process.~~

(c) ~~Each society which enters a peer review agreement with the Board shall establish and maintain a program for impaired physicians licensed by the Board. The Academy, after entering a peer review agreement with the Board, shall either enter an agreement with the North Carolina Medical Society for the inclusion of physician assistants in the Society's program for impaired physicians, or shall establish and maintain the Academy's own program for impaired physician assistants. The purpose of the programs shall be to identify, review, and evaluate the ability of those physicians and physician assistants to function in their professional capacity and to provide programs for treatment and rehabilitation. The North Carolina Physicians Health Program (Program) is an independent organization for medical professionals that provides screening, referral, monitoring, educational, and support services. The Board-Board, Society, and the Academy may provide funds for the administration of impaired physician and impaired physician assistant programs and shall adopt rules with provisions for definitions of impairment; guidelines for program elements; procedures for receipt and use of information of suspected impairment; procedures for intervention and referral; monitoring treatment, rehabilitation, post treatment support and performance; reports of individual cases to the Board; periodic reporting of statistical information; assurance of confidentiality of nonpublic information and of the review process.~~the Program.

(d) ~~Upon investigation and review of a physician licensed by the Board, or a physician assistant approved by the Board, or upon receipt of a complaint or other information, a society which enters a peer review agreement with the Board, or the Academy if it has a peer review agreement with the Board, as appropriate, The Program shall report immediately to the Board detailed information about any physician or physician assistant licensed or approved by the Board if:~~licensee of the Board who meets any of the following criteria:

(1) ~~The physician or physician assistant constitutes~~The licensee constitutes an imminent danger to the public or to himself-patient care by reason of impairment, mental illness, physical illness, the commission of substance use disorder, professional sexual boundary violations, misconduct, or any other reason;reason.

(2) ~~The physician or physician assistant~~The licensee refuses to cooperate with the program, refuses to submit to treatment, or is still impaired after treatment and exhibits professional incompetence; orsubmit to an assessment as ordered by the Board, has entered into a monitoring contract and fails to comply with the terms of the Program's monitoring contract, or is still unsafe to practice medicine after treatment.

(3) ~~It reasonably appears that there are other grounds for disciplinary action.~~

(e) ~~Any confidential patient information and other nonpublic information acquired, created, or used in good faith by the Academy or a society~~Program pursuant to this section shall remain confidential and shall not be subject to discovery or subpoena in a civil case. is privileged, confidential, and not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than to the Board, the Program, or their employees or consultants. No person participating in good faith in the peer review or impaired physician or impaired physician assistant programs of this sectionProgram shall be required in a civil case to disclose the fact of

1 participation in the Program or any information acquired or opinions, recommendations, or
2 evaluations acquired or developed solely in the course of participating in ~~any agreements~~ the
3 Program pursuant to this section.

4 (f) ~~Peer review activities~~ Activities conducted in good faith pursuant to ~~any~~ the agreement
5 ~~under~~ authorized by subsection (a) of this section shall not be grounds for civil action under the
6 laws of this State and ~~are deemed to be State directed and sanctioned and shall constitute State~~
7 ~~action for the purposes of application of antitrust laws.~~ State.

8 (g) Upon the written request of a licensee, the Program shall provide the licensee and the
9 licensee's legal counsel with a copy of a written assessment of the licensee prepared as part of the
10 licensee's participation in the Program. In addition, the licensee shall be entitled to a copy of any
11 written assessment created by a treatment provider or facility at the recommendation of the
12 Program, to the extent permitted by State and federal laws and regulations. Any information
13 furnished to a licensee pursuant to this subsection shall be inadmissible in evidence and shall not
14 be subject to discovery in any civil proceeding. However, this subsection shall not be construed to
15 make information, documents, or records otherwise available for discovery or use in a civil action
16 immune from discovery or use in a civil action merely because the information, documents, or
17 records were included as part of the Program's assessment of the licensee or were the subject of
18 information furnished to the licensee pursuant to this subsection. For purposes of this subsection, a
19 civil action or proceeding shall not include administrative actions or proceedings conducted in
20 accordance with Article 1 of Chapter 90 and Chapter 150B of the General Statutes.

21 (h) The Board has authority to adopt, amend, or repeal rules as may be necessary to carry
22 out and enforce the provisions of this section."

23 **SECTION 13.(o)** G.S. 90-16(d) is repealed.

24 **SECTION 13.(p)** This section becomes effective October 1, 2016.

25
26 **INCREASE THE TIME FOR CERTIFICATION OF CHIROPRACTIC CLINICAL**
27 **ASSISTANTS BY THE STATE BOARD OF CHIROPRACTIC EXAMINERS AND**
28 **AUTHORIZE THE STATE BOARD OF CHIROPRACTIC EXAMINERS AND TO**
29 **INCREASE ANNUAL LICENSE RENEWAL FEES**

30 **SECTION 14.(a)** G.S. 90-143.4(b) reads as rewritten:

31 "(b) Any person employed as a chiropractic clinical assistant shall obtain a certificate of
32 competency from the State Board of Chiropractic Examiners (Board) within ~~420~~ 180 days after the
33 person begins employment. Certification shall not be required for employees whose duties are
34 limited to administrative activities of a nonclinical nature. Except as otherwise provided in this
35 section, it shall be unlawful for any person to practice as a chiropractic clinical assistant unless
36 duly certified by the Board."

37 **SECTION 14.(b)** G.S. 90-154(a) reads as rewritten:

38 "(a) The Board of Chiropractic Examiners may impose any of the following sanctions,
39 singly or in combination, when it finds that a practitioner or applicant is guilty of any offense
40 described in subsection (b):

41 (1) Permanently revoke a license to practice ~~chiropractic~~ chiropractic.

42 (2) Suspend a license to practice ~~chiropractic~~ chiropractic.

43 (3) Refuse to grant a ~~license~~ license.

44 (4) Censure a ~~practitioner~~ practitioner.

45 (5) Issue a letter of ~~reprimand~~ reprimand.

46 (6) Place a practitioner on probationary status and require him to report regularly to
47 the Board upon the matters which are the basis of probation.

48 **SECTION 14.(c)** G.S. 90-155 reads as rewritten:

49 **"§ 90-155. Annual fee for renewal of license.**

50 Any person practicing chiropractic in this State, in order to renew ~~his~~ a license, shall, on or
51 before the first Tuesday after the first Monday in January in each year after a license is issued ~~to~~

him as herein provided, pay to the secretary of the Board of Chiropractic Examiners a renewal license fee as prescribed and set by the said Board which fee shall not be more than ~~one hundred fiftyone hundred eighty~~ dollars ~~(\$150.00), (\$180.00)~~ and shall furnish the Board evidence ~~that he has~~of having attended two days of educational sessions or programs approved by the Board during the preceding 12 months, provided the Board may waive this educational requirement due to sickness or other hardship of the applicant.

Any license or certificate granted by the Board under this Article shall automatically be canceled if the holder ~~thereof of the license or certificate~~ fails to secure a renewal within 30 days from the time herein provided; but any license thus canceled may, upon evidence of good moral character and proper proficiency, be restored upon the payment of the renewal fee and an additional twenty-five dollars (\$25.00) reinstatement fee.

If any licensee of the Board retires from active practice, the licensee may renew his or her license annually by paying the license fee and shall not be required to furnish the Board proof of continuing education; however, if at a later time the licensee desires to resume active practice, the licensee shall first appear before the Board and the Board shall determine ~~his~~the licensee's competency to practice."

SECTION 14.(d) Section 14.(b) of this section becomes effective December 1, 2016, and applies to offenses committed on or after that date. The remainder of this section is effective when it becomes law.

AMEND DISPENSING OPTICIAN EXAMINATION QUALIFICATIONS AND APPRENTICESHIP REQUIREMENTS AND AUTHORIZE THE STATE BOARD OF OPTICIANS TO INCREASE CERTAIN LICENSURE FEES

SECTION 15.(a) G.S. 90-240 reads as rewritten:

"§ 90-240. Examination.

(a) Applicants to take the examination for dispensing opticians shall be high school graduates or the equivalent ~~who; who have done one of the following:~~

- (1) ~~Have successfully~~Successfully completed a two-year course of training in an accredited school of opticianry with a minimum of 1600 ~~hours; or~~hours.
- (2) ~~Have completed three~~Completed two and one-half years of apprenticeship while registered with the Board under a licensed dispensing optician, with time spent in a recognized school credited as part of the apprenticeship ~~period;~~or period.
- (3) ~~Have completed three~~Completed two and one-half years of apprenticeship while registered with the Board under the direct supervision of an optometrist or a physician specializing in ophthalmology, provided the supervising optometrist or physician elects to operate the apprenticeship under the same requirements applicable to dispensing opticians.

(a1) Applicants to take the examination for dispensing opticians who are graduates from an accredited college or university with a four-year degree or comparable degree in a health-related field shall satisfy one of the following:

- (1) The requirements of subdivision (1) of subsection (a) of this section.
- (2) Successful completion of two years of apprenticeship while registered with the Board under a health care professional identified in subdivision (2) or (3) of subsection (a) of this section. The Board may adopt rules specifying the colleges, universities, and coursework that meet the accreditation requirements of this subsection.

(b) The examination shall be confined to such knowledge as is reasonably necessary to engage in preparation and dispensing of optical devices and shall include the following:

- (1) The skills necessary for the proper analysis of prescriptions;
- (2) The skills necessary for the dispensing of eyeglasses and contact lenses; and

(3) The processes by which the products offered by dispensing opticians are manufactured.

(c) The examination shall be given at least twice each year at sites and on dates that are publicly announced 60 days in advance.

(d) Each applicant shall, upon request, receive his or her examination score on each section of the examination.

(e) The Board ~~may~~ shall include as part or all of the examination, any nationally prepared and recognized examination, and will periodically review and validate any exam in use by the Board. The Board will credit an applicant with the score on any national test ~~taken successfully completed in the last three years~~ immediately preceding the date the applicant is scheduled to take the North Carolina examination, to the extent that such test may be included in the North Carolina exam. ~~The Board shall adopt rules designating the nationally prepared and recognized examinations that will satisfy and serve as credit for parts or all of the North Carolina examination.~~

(f) ~~An applicant for admission on the basis of apprenticeship shall have worked full time under the supervision of a licensed dispensing optician, optometrist or physician trained in ophthalmology. An apprentice shall have obtained experience in ophthalmic fabricating and manufacturing techniques and processes for no less than six months and shall have gained experience in the other activities defined as dispensing herein. Completion of the six-month internship required of all applicants under G.S. 90-237(4) may, at the election of the applicant, occur before or after the applicant sits for the examination as provided in this section, so long as the applicant has met the minimum qualifications for examination under subsection (a) or (a1) of this section at the time the internship commences."~~

SECTION 15.(b) G.S. 90-245 reads as rewritten:

"§ 90-245. Collection of fees.

The ~~secretary to~~ administrator for the Board is hereby authorized and empowered to collect in the name and on behalf of this Board the fees prescribed by this Article and shall turn over to the State Treasurer all funds collected or received under this Article, which funds shall be credited to the North Carolina State Board of Opticians, and said funds shall be held and expended under the supervision of the Director of the Budget of the State of North Carolina exclusively for the administration and enforcement of the provisions of this Article. Nothing in this Article shall be construed to authorize any expenditure in excess of the amount available from time to time in the hands of the State Treasurer derived from the fees collected under the provisions of this Article and received by the State Treasurer in the manner aforesaid."

SECTION 15.(c) G.S. 90-246 reads as rewritten:

"§ 90-246. Fees.

In order to provide the means of administering and enforcing the provisions of this Article and the other duties of the North Carolina State Board of Opticians, the Board is hereby authorized to charge and collect ~~fees established by its rules not to exceed the following:~~ the following fees:

(1)	Each examination	\$200.00 <u>\$300.00</u>
(2)	Each initial license	\$ 50.00 <u>\$100.00</u>
(3)	Each renewal of license	\$100.00 <u>\$150.00</u>
(4)	Each license issued to a practitioner of another state to practice in this State	\$200.00 <u>\$300.00</u>
(5)	Each registration of an optical place of business	\$ 50.00 <u>\$ 75.00</u>
(6)	Each application for registration as an opticianry apprentice or intern, and renewals thereof	\$ 25.00 <u>\$ 35.00</u>
(7)	Repealed by Session Laws 1997-424, s. 4.	
(8)	Each registration of a training establishment	\$ 25.00 <u>\$ 35.00</u>
(9)	Each license verification	\$ 10.00 <u>\$ 15.00</u>
(10)	Each registration of an optician in charge	<u>\$ 50.00</u>

- (11) Late fee for restoration of an expired license within the first year after expiration..... \$ 75.00
- (12) Late fee for restoration of an expired license within the second year after expiration \$150.00
- (13) Restoration fee for an inactive license within the second year..... \$100.00."

SECTION 15.(d) G.S. 90-249 is amended by adding a new subdivision to read:

"(10a) Designation of accredited colleges, universities, and coursework that satisfy the qualifications for examination pursuant to G.S. 90-240(a1)."

INCREASE THE FEE FOR REAL ESTATE BROKER LICENSE APPLICATIONS AND REINSTATEMENTS AND INCREASE THE CAP FOR RENEWAL FEES

SECTION 16. G.S. 93A-4 reads as rewritten:

"§ 93A-4. Applications for licenses; fees; qualifications; examinations; privilege licenses; renewal or reinstatement of license; power to enforce provisions.

(a) Any person, partnership, corporation, limited liability company, association, or other business entity hereafter desiring to enter into business of and obtain a license as a real estate broker shall make written application for such license to the Commission in the form and manner prescribed by the Commission. Each applicant for a license as a real estate broker shall be at least 18 years of age. Each applicant for a license as a real estate broker shall, within three years preceding the date the application is made, have satisfactorily completed, at a school approved by the Commission, an education program consisting of at least 75 hours of ~~classroom~~-instruction in subjects determined by the Commission, or shall possess real estate education or experience in real estate transactions which the Commission shall find equivalent to the education program. Each applicant for a license as a real estate broker shall be required to pay a ~~fee, fixed by the Commission but not to exceed thirty dollars (\$30.00)-fee.~~ The application fee shall be one hundred dollars (\$100.00) unless the Commission sets the fee at a higher amount by rule; however, the Commission shall not set a fee that exceeds one hundred twenty dollars (\$120.00). The application fee shall not increase by more than five dollars (\$5.00) during a 12-month period.

(a1) Each person who is issued a real estate broker license on or after April 1, 2006, shall initially be classified as a provisional broker and shall, within three years following initial licensure, satisfactorily complete, at a school approved by the Commission, a postlicensing education program consisting of 90 hours of ~~classroom~~-instruction in subjects determined by the Commission or shall possess real estate education or experience in real estate transactions which the Commission shall find equivalent to the education program. The Commission may, by rule, establish a schedule for completion of the prescribed postlicensing education that requires provisional brokers to complete portions of the 90-hour postlicensing education program in less than three years, and provisional brokers must comply with this schedule in order to be entitled to actively engage in real estate brokerage. Upon completion of the postlicensing education program, the provisional status of the broker's license shall be terminated. When a provisional broker fails to complete all 90 hours of required postlicensing education within three years following initial licensure, the broker's license shall be placed on inactive status. The broker's license shall not be returned to active status until he or she has satisfied such requirements as the Commission may by rule require. Every license cancelled after April 1, 2009, because the licensee failed to complete postlicensing education shall be reinstated on inactive status until such time as the licensee satisfies the requirements for returning to active status as the Commission may by rule require.

...

(c) All licenses issued by the Commission under the provisions of this Chapter shall expire on the 30th day of June following issuance or on any other date that the Commission may determine and shall become invalid after that date unless reinstated. A license may be renewed 45 days prior to the expiration date by filing an application with and paying to the Executive Director

1 of the Commission the license renewal fee. The license renewal fee is ~~thirty dollars (\$30.00)~~ shall
2 ~~be forty-five dollars (\$45.00)~~ unless the Commission sets the fee at a higher amount. ~~The amount~~
3 ~~by rule; however, the Commission may shall not~~ set the license renewal fee at an amount that ~~does~~
4 ~~not exceed fifty dollars (\$50.00).~~ ~~exceeds sixty dollars (\$60.00).~~ The license renewal fee may not
5 increase by more than five dollars (\$5.00) during a 12-month period. The Commission may adopt
6 rules establishing a system of license renewal in which the licenses expire annually with varying
7 expiration dates. These rules shall provide for prorating the annual fee to cover the initial renewal
8 period so that no licensee shall be charged an amount greater than the annual fee for any 12-month
9 period. The fee for reinstatement of an ~~expired~~ expired, revoked, or suspended license shall be
10 ~~fifty-five dollars (\$55.00).~~ an amount equal to two times the license renewal fee at the time the
11 application for reinstatement is submitted. In the event a licensee fails to obtain a reinstatement of
12 such license within six months after the expiration date thereof, the Commission may, in its
13 discretion, consider such person as not having been previously licensed, and thereby subject to the
14 provisions of this Chapter relating to the issuance of an original license, including the examination
15 requirements set forth herein. Duplicate licenses may be issued by the Commission upon payment
16 of a fee of five dollars (\$5.00) by the licensee. Commission certification of a licensee's license
17 history shall be made only after the payment of a fee of ten dollars (\$10.00).

18"

19 **SECTION 16.(b)** This section becomes effective January 1, 2017.

20
21 **EFFECTIVE DATE**

22 **SECTION 17.** Except as otherwise provided, this act is effective when it becomes
23 law.